



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/691,716 | 10/22/2003 | Mario Latronico | 58009-017200 | 6855 |
| 33717 | 7590 | 04/24/2006 | | |
| GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404 | | | | |
| | | | EXAMINER TAWFIK, SAMEH | |
| | | | ART UNIT 3721 | PAPER NUMBER |

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,716

Applicant(s)

LATRONICO, MARIO

Examiner

Sameh H. Tawfik

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
2a) ☒ This action is **FINAL**.
2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-10 and 13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Application/Control Number: 10/691,716
Art Unit: 3721

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Runge (5,247,781) in view of Grevich et al. (4,305,240).

Runge discloses a horizontal packaging machine for making packages equipped with zip closure (16 and 18), the machine comprising at least one unit for unwinding a film (20) of synthetic material for packaging a series of products (24); at least one unit (36) for unreeling a pair of tapes to form a zip closure (16 and 18); a shaping tunnel located downstream of the film unreeling unit (Fig. 4; via sealing apparatus 124); a sealing unit located downstream of the shaping tunnel (Fig. 4; via sealing bars 128).

Runge does not disclose a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages; wherein the location of the power driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed. However,

Grevich discloses a similar packaging machine comprising a power-driven film feed roller (Figs. 1-3; via rotor 17) designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws (via sealing and cutoff heads 18) for transversely sealing

Application/Control Number: 10/691,716

Art Unit: 3721

and separating the packages (Figs. 1-5; via jaws 18); wherein the location of the power driven film feed roller (17) and the uniform pulling force prevents the film from being uneven while sealed, see for example (Figs. 1-3; the film been feed, pulled, and evenly sealed).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing and cutting bars 128 by having a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages, wherein the location of the power driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed, as suggested by Grevich, in order to readily and easily varying the length of the produced packages and readily adjusting the sealing and cutoff heads on the rotor to accommodate packages of various lengths (column 2, lines 40-45).

Regarding claim 3: Runge discloses a zip tape and package separating unit (Fig. 4; via knife 130).

Regarding claim 4: Grevich discloses that the jaws have cutting edges (Fig. 5; via 18).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing and cutting bars 128 by having a power-driven film feed roller with jaws having cutting edges, as suggested by Grevich, in order to readily and easily varying the length of the produced packages and

Application/Control Number: 10/691,716

Art Unit: 3721

radially adjusting the sealing and cutoff heads on the rotor to accommodate packages of various lengths (column 2, lines 40-45).

Regarding claim 5: Runge nor Grevich disclose a pair of opposite platforms one on each side of the film to make a first continuous seal along the outside of the joined edges of the film and a second seal along the inside in order to attach the zip tape to the film edges. However, the examiner takes an official notice that the mentioned two seals on a reclosable bags is old, well known and available in the art, see for example US. Patent Num. 6,523,325 and 4,618,383. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Runge's horizontal packaging machine by having means to make a first continuous seal along the outside of the joined edges of the film in order to secure the inside seal from any damage and provide the customer with a prove that the bag is never opened and a second seal along the inside in order to attach the zip tape to the film edges.

Regarding claim 6: Runge discloses free turning guide rollers to guide the film into the sealing unit (Fig. 4; via rollers 88 and 90).

Regarding claim 7: Runge discloses a pair of jaws feature a longitudinal groove which accommodates the zip tape while the seal is being made (Fig. 4; via sealing bars 124 and 128)

Regarding claim 8: Runge discloses close to the unit (36) for unwinding the zip tape (16 and 18), a pair of unwinding rollers (Fig. 1; via guide rollers 40, 44, 46, 48, and 49). Runge does not disclose that rollers for unwinding are driven by a servomotor. However, the examiner takes an official notice that driving rollers by servomotor is old, well known and available in the art. Therefore, it would have been obvious to one having

Application/Control Number: 10/691,716

Art Unit: 3721

ordinary skill in the art at the time the invention was made to have modified Runge's horizontal packaging machine by having servomotor to control the unwinding of the zip tape, in order to control the tension of the closure tape.

Regarding claim 9: Runge does not disclose downstream of the power-driven roller a device for collecting and feeding out the packages. However, it is inherent that Runge's packaging apparatus have a collecting or stacking station by the end of the manufacture line.

Regarding claim 10: Runge does not disclose that two process lines placed side by side. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Runge's packaging machine by having two process lines placed side by side, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. in order to have more manufactured bags in shorter time.

Regarding claim 13: Runge discloses a free turning guide rollers for guiding the film into the sealing unit (Fig. 2; via guide and pressing rollers 104 and 106).

Response to Arguments

Applicant's arguments filed 03/08/2006 have been fully considered but they are not persuasive.

Applicant argues in pages 6 and 7 of the filed arguments that Grevich's reference does not disclose applying a uniform pulling force as it appears that it is the wrapper 11 that drives the film 12; the rotational speed of the shaft 17 is coordinated to the speed of travel of the articles in the wrapper that means the shaft is not able to apply any pulling force to the film. The examiner maintains that Grevich's reference as admitted by

Application/Control Number: 10/691,716

Art Unit: 3721

applicants using motor 22, speed drive 22.1, and chain 22.2 to drive shaft 17, see for example Fig. 4 as there is no means of feeding/pulling the film 12 between the wrapper 11 and the rotor 17, that make it clear and obvious to be counting on the rotor 17 as a feeding/pulling means of the film.

Applicant argues that Grevich discloses the rotational speed of the shaft 17 is equal to the speed of travel of the articles in the wrapper and thus the shaft is not able to apply any pulling force to the film 12. The examiner maintains that as Grevich does not disclose any means of feeding film 12 of the traveling distance between the feeding conveyor and rotary 17, that make it clear such pulling force to the film has to be applied by the rotor 17, see for example Fig. 4.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner maintains that both references to Runge and Grevich are relating to the same art of packaging continuous articles into bags and cutting them into single bags regardless to the fact that one suggesting the use of zipper type bags and the other does not as long as both references are relating to the same type of packaging art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Runge's sealing and cutting bars 128 by having a power-driven film feed

Application/Control Number: 10/691,716

Art Unit: 3721

roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages, wherein the location of the power driven film feed roller and the uniform pulling force prevents the film from being uneven while sealed, as suggested by Grevich, in order to readily and easily varying the length of the produced packages and readily adjusting the sealing and cutoff heads on the rotor to accommodate packages of various lengths (column 2, lines 40-45).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

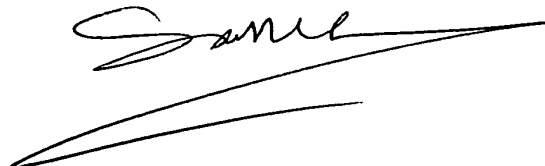
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

Application/Control Number: 10/691,716
Art Unit: 3721

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik
Patent Examiner
Art Unit 3721



ST.